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Summary record of the 2517th meeting
Held at Headquarters, New York, on Thursday, 20 March 2008, at 10 a.m.

Chairperson: Mr. Rivas Posada

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08-27779 (E)

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Initial report of Botswana (*continued*)
(CCPR/C/BWA/1; CCPR/C/BWA/Q/1)

1. *At the invitation of the Chairperson, the members of the delegation of Botswana took places at the Committee table.*

2. **The Chairperson** invited the delegation of Botswana to continue its replies to points raised in connection with questions 22-25 on the list of issues (CCPR/C/BWA/Q/1).

3. **Ms. Mongwa** (Botswana), said the proportion of women among persons registered for elections had been 56 and 57 per cent respectively in 1999 and 2004. Out of 61 members of Parliament, seven were women, while in decision-making posts generally, in both the private and the public sectors, the representation of women was 41 per cent. Indeed, in both sectors, there had been significant advances in that respect in recent years, with women called on to serve, in particular, as Attorney-General, bank governors and ambassadors.

4. **Mr. Skelemani** (Botswana), taking up question 23, said that Botswana, like many other developing countries, had been faced with the challenge of redistributing its sparse wealth fairly and had for that reason framed a National Settlement Policy. The aim was to ensure through demographic regrouping that the majority of the people could benefit from necessary services and infrastructure, including schools, clinics, roads and water; people living in scattered locations within the Central Kalahari Game Reserve had accordingly been encouraged, not forced, to move out of the Reserve. National development was seen as a bottom-up process and was based on the *kgotla* system, whereby local communities were able to play a part in setting national priorities. The High Court judgement of 13 December 2006, referred to in the question, had centred on the issue of the cost of relocation, which had been challenged by the applicants; they had not appealed for clarification of the court decision regarding the Reserve, which still remained valid. Those who applied to return to the Reserve, including 30 persons who had not been on the original list of applicants, would be allowed to re-enter upon production of their national identity card but would have to provide their own water and other services, which under the court decision did not form part of the obligations of the Government. Game hunting permits could be requested as previously from the Department of Wildlife and National Parks, and indeed, they continued to be issued, outside the breeding period for the animals concerned. As for domestic animals, those currently inside the Reserve could remain there, but once taken out, they could not be reintroduced. In any case, all matters relating to the Reserve were more appropriately to be settled by negotiation under the *kgotla* system, not through the courts. That applied also to the question of the rights of the Basarwa, the majority of whom lived in settlements outside the Reserve: it had to be addressed directly with the people concerned, without the involvement of any outside organization. The Government considered that it was its duty to persuade all citizens to join the mainstream.

5. Turning to question 24, he said that some people had thought that the previous versions of the sections of the Constitution referred to were discriminatory and the Government had therefore amended them. That was but the beginning of what was bound to be a long process, since there was resistance from the members of some minorities who wished to hold on to what they regarded as their acquired rights. Under the new constitutional provisions, members of the House of Chiefs were to be elected by an electoral college composed of headmen, in other words, those entrusted with the office of *kgosi*, who were not necessarily tribal chiefs. In addition, the President appointed five of its members, and was using that power to ensure greater participation by women and underrepresented groups. It had been contended that each tribal community should be able to have its chief appointed to the House of Chiefs, but that ignored the problem of defining what constituted a tribe. The Basarwa, for instance, were scattered all over the country and some of them could not even understand one another. Chieftainship must contribute to the development of Botswana as a Republic; otherwise, it should not be taken into account. The Bogosi Bill accordingly repealed and replaced the Chieftainship Act, in particular so that the notion of tribal community would not be linked to that of a tribal territory. A citizen was entitled to apply for land by virtue of belonging to the people of Botswana, not to any given tribal entity; moreover, such entitlement was not limited either to a tribal territory or to the home area. The Republic had gone past the stage of fighting over tribal territories and, under the Tribal Territories Act, had made it

possible to recognize tribes, designate chiefs and give access to land without reference to any such territory.

6. Moving on to question 25, he said that while Setswana and English were the only languages formally used in schools, the Government had recognized that other languages spoken in the country should be brought into the curriculum. It had therefore revised its language policy in support of the teaching of local languages, starting at pre-primary level. Much depended on financing, however, particularly since there was no established orthography for some of those languages. Steps had begun to be taken towards that goal, on which there was general agreement, notwithstanding different views as to the possible pace of implementation.

7. **The Chairperson** invited the Committee to pose follow-up questions in connection with 14-25 on the list of issues.

8. **Mr. Khalil** said that he was grateful for the additional information on measures taken by the State party to guarantee the independence of the judiciary. It would be useful, however, to have confirmation that at least two members of the tribunal mentioned in paragraph 310 of the report were judges. On the issue of legal assistance, it was clear that although individuals charged with capital offences were entitled to *pro deo* counsel, the remuneration provided by the Government was not sufficient to attract suitably qualified lawyers. Furthermore, as a result of high poverty levels, many individuals accused of other crimes simply did not have the means to obtain adequate legal representation. He hoped that the study on legal aid referred to by the State party would be accorded priority attention with a view to ensuring that all citizens, including indigent persons, could enjoy the right to a fair trial enshrined in article 14 of the Covenant.

9. Referring to question 16 on the list of issues, he expressed concern about the uneven application of the Act regulating the jurisdiction and procedures of the customary courts, particularly since an estimated 85 per cent of all criminal cases were tried by such courts. The lack of awareness of the Act among the public at large and the fact that it had not been translated into Setswana or other local languages further hindered efforts to ensure respect for the provisions of article 14 of the Covenant.

10. **Ms. Palm**, referring to the freedom of expression (questions 17 and 18), enquired whether the three privately owned radio stations had the same broadcast coverage as the two State-owned stations. It would appear that Botswana had only one privately owned television station, GBCTV. It would therefore be interesting to have more detailed information about the criteria for awarding broadcasting licences to private companies; she would also like to know how many State-owned stations existed and the extent of their broadcast coverage.

11. The State party's reply to question 18 was insufficiently detailed. Since the provisions of section 90 of the Penal Code were rather vague, it would be useful to have some examples of cases in which it had been applied. Similarly, case law relating to the application of section 93 (1) of that Code on the use of abusive, obscene or insulting language in relation to the President or any public official should be provided. She was curious to know what constituted insulting language within the meaning of that article.

12. **Mr. Iwasawa** expressed concern that, since section 14 of the Marriage Act did not apply to unions contracted under customary law, persons under the age of 18 were in theory permitted to marry under the latter system. However, he welcomed the steps taken by the Government to amend the Act and to promote the registration of all marriages. With reference to question 20 of the list of issues, he stressed the importance of taking all necessary measures to ensure that customary law was not applied in such a way as to conflict with the provisions of the Covenant.

13. Turning to the issue of participation in public affairs (article 25 of the Covenant), he said that it would be useful to have more detailed information on the political situation in Botswana. Data on the number of political parties and their membership would be particularly instructive. Since the Government was not responsible for funding those parties, he wondered whether there had been instances of corruption involving private donors. Although women still accounted for only 11 per cent of the total number of parliamentarians, it was encouraging to see that, in absolute terms, their numbers had increased. Furthermore, it would appear that 7 of the 18 Cabinet ministers, or 28 per cent, were female. Additional information on the number of female judges, in particular those presiding over the Court of Appeal, prosecutors and lawyers, as well as the number of

women occupying decision-making and managerial posts in the public and private sectors, would be helpful.

14. With regard to the rights of persons belonging to minorities, it was unfortunate that the State party had been unable to provide statistical data disaggregated by tribe. Such data should be included in the second periodic report. The replies to question 23 on the list of issues suggested that the Government had not forced the residents of the Central Kalahari Game Reserve to relocate. However, he had received reports from other sources that those residents had been compelled to move because the Government had discontinued the supply of basic services to the Reserve. In that connection, more detailed information should be provided about the outcome of the fact-finding mission mentioned in paragraphs 279-282 of the report. He also wished to know whether section 14 (3) (c) of the Constitution, which made special provision for the Basarwa people, had been amended and, if so, whether the amendments had had an effect on the situation of the Basarwa people living in the Reserve. Further information on the living conditions of that group, both inside and outside the Reserve, would also be useful. Lastly, he commended the State party for its willingness to reach a negotiated solution to the problems connected with the Reserve.

15. **Mr. O'Flaherty** commended the State party for its desire to respect the rights of all the various ethnic groups living within its territory but pointed out that the lack of data disaggregated by tribe was a serious impediment to that endeavour. He was concerned that the ongoing negotiations on the establishment of a new House of Chiefs would be undermined by the need to accommodate vested interests, resulting in the persistence of the traditional distinctions between majority and minority tribes. More detailed information on that issue would be welcome. Concerns had also been expressed that the Bogosi Bill had not been the subject of widespread public debate. If that was indeed the case, it would be interesting to know whether the Government would reconsider its position on that question and hold public hearings.

16. As far as discrimination against particular ethnic groups was concerned, reports had suggested the existence of a bias against non-Tswana people. Indeed, according to his sources, 9 of the 12 Land Board secretaries in the country were Tswana, despite the fact that the Tswana people did not account for the majority of the population. He would be grateful for an explanation of that situation. The Committee had also received allegations of long-standing and widespread discrimination against the Wayeyi people, including the recent suspicious deaths of two successive Wayeyi chiefs. Not only had the police been unwilling to investigate those deaths, but the Government had not yet recognized the new Wayeyi chief. He would welcome the State party's comments on that issue. Lastly, while he commended the State party for its new approach to language teaching, it would be interesting to hear more about the alleged unwillingness of radio stations to broadcast songs in non-Tswana languages.

17. **Mr. Bhagwati**, referring to questions 14 and 15 on the list of issues, asked whether the recommendations of the Judicial Service Commission in matters relating to the misconduct of judges were binding on the President. The State party should indicate how many such recommendations had been made and what had become of them. While legal aid services were provided to individuals accused of capital offences, it was unclear from the report whether individuals accused of other crimes could avail themselves of such assistance. He would like to know whether any relevant legislation had been enacted; if so, a detailed account of its content should be supplied. It would also be useful to have an indication of the number of cases in which legal aid had been provided.

18. **Mr. Johnson**, returning to the issue of capital punishment, enquired as to the measures taken or envisaged to address the calls for a moratorium on the death penalty in Botswana emanating from regional and other organizations. He would also like to know whether the Government had taken any steps to change tribal chiefs' opinion on the death penalty with a view to achieving its abolition.

19. **Mr. Amor** said that he would be grateful for more information on the future participation of women in the new House of Chiefs. He would also like to know whether the proceedings of the House were governed by positive or customary law, whether it was empowered to make decisions or merely to issue recommendations and whether those decisions and/or recommendations were implemented by institutions constituted under customary law or State bodies. If the former, did the State have any role in monitoring their implementation?

20. The customary courts in Botswana did not seem to concern themselves with the guarantees set out in the Covenant. Since those courts dealt with both civil and criminal matters, it would be useful to know whether the State judicial machinery was competent to oversee their rulings and whether individuals dissatisfied with the findings of the customary courts could bring an appeal before the State courts.

21. The State party's policy of relocating individuals and groups from remote areas to more densely populated ones was perfectly legitimate because it facilitated the provision of basic social services. It was important, however, to ensure respect for the freedom of movement of relocated individuals and groups; he therefore enquired whether the former residents of the Central Kalahari Game Reserve were permitted to come and go from the Reserve as they pleased.

22. Lastly, referring to the issue of minority groups and languages, he said that ethnic diversity was a valuable asset, albeit one that was sometimes difficult to manage. Botswana had been subject to the yoke of colonialism for many years and was therefore seeking to forge a national identity based on the unity of its peoples. At the same time, however, it was cognizant of the need to respect the rights of all its ethnic groups. Every effort should be made to ensure that the enjoyment of collective rights did not undermine the exercise of the individual rights enshrined in both the Constitution and the Covenant.

23. **Ms. Wedgwood** said that there appeared to be a latent contradiction in the State party's arguments: Botswana sought to create national identity, yet the system of customary courts was kept separate from the ideals of justice that were part of the national identity. It was therefore necessary to transform the customary courts, difficult though that might be.

24. It was not clear why attorneys were not allowed to appear in customary-court hearings; rather than simply complicating issues, attorneys could help to educate judges about the law and clients about their rights, including those provided for under the Covenant. Such legal assistance was especially important in the case of vulnerable individuals, including illiterate persons or young women. Ultimately, attorneys might also play a useful role in developing customary law by making it more convergent with common law and the Covenant. Therefore, while not requiring the presence of attorneys might be understandable, forbidding their appearance outright seemed extreme. Moreover, individuals should be given formal notice of their right to transfer their case and there should be a written record of their waiver of that right.

25. While recognizing that the conservation of the Central Kalahari Game Reserve was important for the country economically, she said that it was not clear why the State party did not allow the Basarwa in the Reserve to use boreholes to access water, especially since bringing in water from outside the Reserve was extremely costly. Also, severe restrictions on hunting when hunting was the lifeblood of the people living in the Reserve should be open to question. If some individuals from the Reserve had won a case allowing their return to the Reserve, that right should be extended to persons in the same situation even if they had not been formal plaintiffs. In addition, it appeared needlessly harsh to prohibit people from bringing in livestock, such as goats, when their milk might serve as nourishment. Although the desire to carry out game management and to maintain the Reserve as a thriving tourist attraction was understandable, it was also important to preserve traditional ways of life; indeed, it might prove economically short-sighted to lose the traditional learning used to sustain such a way of life.

26. She asked whether Botswana had considered ratifying the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights. Such a step might be beneficial, as it would allow regional consideration of complaints, with direct recourse to that Court.

27. **Mr. Skelemani** (Botswana) said that judges could be removed only if they were unable to perform their duties for health reasons or had engaged in inappropriate conduct. Under section 97 (3) of the Constitution, if the President of Botswana considered that the question of removing a judge of the High Court ought to be investigated, he appointed a tribunal of inquiry consisting of at least three people, namely, a chairperson and two members, who, while they need not be judges themselves, must hold or have held high judicial office. The tribunal reported on the facts of the matter to the President and advised him as to whether the judge ought to be removed; their recommendations were consistently followed. In other words, the true power of removal lay with the tribunal, not with the President.

28. As to legal representation in cases of capital punishment, he considered that, given that lawyering was a profession, with a binding oath, paying lawyers higher fees would not necessarily lead them to perform better. Engaging outside advocates was a costly matter, and it was doubtful that they would even be willing to accept a case on the basis of what the Government was able to pay. He looked forward to the results of the study on legal aid, which would indicate the appropriate line of action not only in cases of capital offences, but also in those involving indigent persons.

29. As far as the customary courts were concerned, in his experience in attending and presiding over customary courts, he did not recall an instance in which an individual had been placed at a disadvantage merely because his case was heard in a customary court. Conducting proceedings in a customary court simply meant that accused persons were tried on the basis of customary law. Everyone who attended the hearing acted as a lawyer of sorts, putting questions to or challenging the various witnesses. Therefore, no actual lawyers were needed. There were, of course, some elementary rules, such as the right of the accused to speak in his own defence or the right to summon and cross-examine witnesses. Customary courts should in no way be likened to "kangaroo courts", although it was desirable to continue improving their procedure.

30. On the subject of the press and radio, he said licences could be freely applied for under the law; however, there were few people in Botswana who wished to invest in the media. One radio station had been allowed to have nationwide coverage, and a recent development permitted communities to apply for and operate their own radio stations. The possibility that programmes might be broadcast in ethnic languages had initially given rise to some concern, but it had later been decided that such a situation would not pose a problem. As to television, one State-owned station existed. One other station had been licensed but had failed to start up. Anyone wishing to operate a television station was free to apply for a licence.

31. On the issue of the use of abusive, obscene or insulting language in relation to the President or any public official (report, para. 359), he recalled at least two cases in which a charge had been brought under the Penal Code for abuse directed against the President. However, abuse should not be confused with lack of manners. As Attorney-General, he had dealt with cases in which he had decided not to prosecute individuals under the relevant provision because he had not believed that the type of language they had used was proscribed. Statistical data would be provided at a later stage.

32. Regarding the Marriage Act, although some ethnic groups still practised the custom whereby men choose young girls as their future wives, not only was the custom losing popularity, but the girls, once they became women, were not prohibited from marrying someone else. However, he took note of the Committee's views regarding the enforcement of the minimum legal age for marriage and agreed that it was not desirable to have customary laws that functioned outside the framework of the Covenant.

33. There were currently not more than 13 political parties in Botswana. The exact number would be confirmed on the basis of information from the registrar, who registered parties when they applied with a minimum number of members. Funding often came from party members' friends and family, or from dues upon joining the party. The situation regarding corruption was unclear, but there had been an instance where a large donation that ought to have been shared among the various opposition parties during the recent election campaign had been kept for himself by the leader of one of the parties.

34. The majority of women continued to vote for men, although that was changing rapidly as women increasingly sought to participate in the political process. The idea of setting aside a number of seats for women was not viewed as an attractive option, as the seats would not be gained in fair competition. There were few women on the bench: three besides the Attorney-General, including in the industrial court, which had similar ranking to the High Court. An ever-growing number of women were studying law and the number of female judges was thus bound to increase in the future.

35. On the issue of disaggregation of statistical data by tribe, Botswana was reluctant to identify individuals by tribal origin; instead, everyone must be regarded as Botswanan. The collection and reporting of tribally based statistics could lead to ethnic tensions. In striving to build a nation, it was essential to maintain unity, although of course the existence of tribes could not be disregarded.

36. On the issue of providing water to the Basarwa people in the Central Kalahari Game Reserve, he

reiterated that the High Court had not contested the Government's right to terminate services in the Reserve. In fact, even reports by Survival International had indicated that the Government did not have an obligation in that respect; the argument addressed before the Court had been the sheer expense of providing such services. The alternative of relocation did exist. He doubted whether the Basarwa had enough money to drill boreholes, but if they wished to, they simply had to ask for permission, like anyone else, in which case they would first have to be allocated a piece of land. Some organizations had initially indicated that they would be willing to help the Basarwa to transport water into the Reserve; however, he suspected that the offer had been made in the hope of creating a confrontation by provoking a Government refusal. In fact, the Government had not prohibited such transportation, and the organizations concerned had not followed through on their offer. He had no information about the fact-finding mission referred to in Mr. Iwasawa's question. The Government was concerned to arrive at a lasting solution by means of negotiations.

37. His reading of amended section 14 (3) (c) of the Constitution was that it prevented non-Basarwa from freely entering the Reserve, but did not stop the Basarwa people from going in or out. However, since it was a game reserve, access by non-Basarwa was restricted by the laws governing game reserves. As far as the living conditions of the Basarwa were concerned, it was important to note that the local governments carried out regular assessments to determine which individuals could feed and clothe themselves and which could not. Those who could not were entitled to clothing and food rations. Such rations were not taken into the Reserve; however, if Basarwa living in the Reserve went to neighbouring communities to be assessed, as they sometimes did, they were eligible to receive such rations. In sum, it was unclear whether it was better for the Basarwa to remain inside the Reserve or to be relocated outside it. His view was that they were better off outside because of easier access to schools, clinics and basic food. Due to cost involved, it was extremely difficult to educate dispersed populations.

38. Efforts to determine the number of tribes in Botswana had failed, as they and their subdivisions were too numerous to count. Furthermore, the data produced during the colonial period had merely reflected the colonial authorities' own concept of tribes. Currently, members of tribes were settled in areas thousands of kilometres from their ancestral lands for various economic reasons. In an effort to avoid identifying areas with any single tribe the Government had decided to rename them in a neutral manner. However, the decision had provoked such an outcry that it had been forced to defer any action. Nevertheless, Botswana was making progress towards becoming a republic. In future, a chief would not have the traditional powers currently associated with chieftainship, as those powers would be governed by statute.

39. When the Bogosi Bill had been given its first reading in Parliament and sent to the House of Chiefs, the chiefs had been granted a 30-day period to consult with their people. In his constituency, he had participated in local public assemblies to explain the Bill. It was not clear how many other Government officials had done likewise. Nevertheless, chiefs throughout the country had engaged in discussions of the Bill and proposed amendments which the Government had accepted.

40. Concerning the Land Board secretaries, they were civil servants who were assigned to areas without regard for their ethnicity or tribe. Vacancies for such posts were filled on the basis of the candidates' qualifications alone. With respect to the figure of 9 out of 12 secretaries of Tswana origin which had been cited, the identity and motives of those who had been looking into the secretaries' ethnic backgrounds were unclear. The assertion that non-Tswana songs were not played on the radio was untrue, as anyone who had ever listened to Botswana radio stations could attest. He had heard songs on the radio in many different languages, including his own. There were no restrictions on the use of minority languages in Botswana. Furthermore, there had been an increasing awareness of the need for public servants to learn some of the country's many languages other than English. The alleged suspect deaths of the Wayeyi chiefs referred to earlier involved nothing other than calls for post-mortems to determine whether there had been foul play. There had been no obstacles to conducting them. Any allegation of Government involvement in the deaths was groundless.

41. The tribunal referred to in paragraph 310 was composed of three persons holding or having held high judicial office. The tribunal advised the President on

whether judges should be removed. Concerning assistance to criminal defendants who could not afford a lawyer, *pro deo* counsel was provided in certain cases before the High Court. However, there was no such assistance in the Magistrate Courts. Regrettably, a person who owned a goat would not be able to qualify for Government assistance even though the income from it would not cover legal fees. Nevertheless, the Registrar of the High Court was empowered to provide assistance to persons who could not afford counsel when it was considered that the case should be heard in the courts.

42. Turning to the death penalty, he failed to see why the Government should be expected to feed a prisoner serving a life sentence when the person in question had engaged in skinning others alive or removing body parts. Such persons deserved to be executed. Nevertheless, he was open to continued discussion on the matter. While there were no Government campaigns to raise awareness among the tribal chiefs about the relevant provisions of the Covenant, the cases tried by them did not involve the death penalty. Some of the chiefs believed that the death penalty should not be abolished while others considered that it should apply to even lesser offences than was currently the case, a position with which he took issue.

43. Regarding the norms governing the House of Chiefs, under the Constitution, the House was entitled to discuss any matter which Parliament could take up and served as adviser to Parliament. House resolutions, however, were not binding on Parliament. With respect to the customary courts, some disputes were settled by chiefs, while others were taken up by courts which provided a written record of proceedings for the Customary Court of Appeal. Such courts of record were required to show that the accused had been informed of his rights, including the right of appeal. No attorneys were allowed in customary courts, because they tended to complicate cases excessively by raising technical issues. In his customary court, for example, he had no time for technicalities. Customary courts dealt directly with the matters at hand. Furthermore, lawyers were normally not well versed in customary law.

44. He failed to understand why non-parties to the court proceedings leading to the order allowing Basarwa tribesmen to return to land in the Central Kalahari Game Reserve should share in its benefits and wondered if they should also have shared the costs if the case had been lost. He recalled that boreholes were Government-owned.

45. Lastly, his Government had introduced legislation which addressed the question raised concerning the right of domicile in cases of divorce. Under the legislation, men and women had the same right to their own domicile. He would provide a copy of the bill to the Committee.

46. **Ms. Motoc** said she would like more information on the Government's efforts to raise awareness among the Botswana people of the need to reconcile the principles of customary law with the principles enshrined in the Covenant.

47. **Ms. Wedgwood** said that persons who were not party to a trial should be given the benefit of a court ruling if it clarified the law. The Government was a unique litigant and had the obligation to follow the law. With respect to boreholes, although they were Government-owned, the Government could be generous in the way in which it made then available to indigenous people if it wished.

48. **Mr. Iwasawa** noted paragraph 291 of the report which cited the view of a human rights group that the decision to terminate basic services to the residents inside the Central Kalahari Game Reserve was wrongful. He would like to know whether the residents who were currently allowed to bring in unlimited amounts of water had the financial means to do so.

49. **Ms. Palm**, said that she looked forward to receiving case law relating to sections 90 to 93 of the Penal Code and would appreciate statistical data on the number of persons punished under those provisions and the penalties incurred.

50. **Sir Nigel Rodley** said that he hoped that the Committee would receive details of the facts of the 40 cases where people had been executed. In particular, he would be interested to know what proportion had involved people who had skinned others alive.

51. **The Chairperson** said that the dialogue between the Committee and the delegation had been particularly important, relating as it had to an initial report. The Committee recognized the challenges facing such a culturally diverse country as Botswana in harmonizing the principles of its customary institutions with the Covenant. However, it had expressed serious concerns over the compatibility between some actions of the tribal chiefs and customary courts and the clear

provisions of the Covenant. It was therefore important for the Government to continue to supply information to the Committee on its implementation of the Covenant and to raise awareness of its provisions among the relevant authorities. The Committee had also attached importance to the establishment of national institutions for the promotion and protection of human rights.

52. Gender discrimination was also a cause for concern. The Government must continue its efforts to ensure equality between men and women in areas such as the minimum age for marriage. The criminalization of same-sex sexual activity was another area of concern, as it was contrary to the Covenant and the jurisprudence of the Committee. The Committee had also expressed very serious concerns about the provisions regarding the death penalty. He wondered whether there were crimes subject to capital punishment other than the ones cited by the delegation. Committee members had stressed the need to take account of possible mitigating circumstances as an argument against the imposition of mandatory death sentences.

53. The Committee had also expressed concern over the lack of statistical data which would make it possible to quantify and assess the scope of human rights problems. Human rights protection was not limited to legislation; it also involved studying the realities of the country.

54. The issue of building new prisons and introducing policies for the rehabilitation of prisoners had also been raised. The failure to hand the bodies of executed persons over to their families seemed to constitute inhuman and degrading treatment for the family members concerned. He reiterated the Committee's desire to continue its dialogue with Botswana, which had the necessary means, institutions and stability to bring its legislation into line with the provisions of the Covenant.

The meeting rose at 1.05 p.m.